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10 Attorneys for Plaintiff

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12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION

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16 UNITED STATES OF AMERICA, ) CR No. 07-764-SI  
17 Plaintiff, ) DECLARATION OF TAREK J. HELOU IN  
18 v. ) SUPPORT OF UNITED STATES'  
19 JUAN HERRERA-SANTOS, ) SENTENCING MEMORANDUM  
20 Defendant. )  
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22 I, Tarek J. Helou, declare and state as follows:

23 1. I am an Assistant United States Attorney in the Northern District of California. I  
24 am counsel of record for the United States in the above-captioned case, *United States v. Juan*  
25 *Herrera-Santos*. I submit this declaration to describe information from documents that I  
26 reviewed in this case.

27 2. The information described below comes from the rap sheet of Ely Sau Chapas-  
28 Aguilera, the defendant in the case *United States v. Chapas-Aguilera*, N.D. Cal. CR 07-0763-01

1 WHA, unless otherwise noted. I obtained Chapas-Aguilera's rap sheet from U.S. Immigration  
2 and Customs Enforcement, which is part of the Department of Homeland Security.

3 3. According to Chapas-Aguilera's rap sheet, he was arrested for possessing a  
4 controlled substance in Multnomah County, Oregon, on July 19, 2002. Charges against him  
5 were dismissed on August 19, 2002.

6 4. According to Chapas-Aguilera's rap sheet, he was arrested for selling crack in  
7 San Francisco on October 13, 2002. Charges against him were dismissed on October 15, 2002.

8 5. According to Chapas-Aguilera's rap sheet, he was arrested for possessing and  
9 delivering a controlled substance in Multnomah County, Oregon, on January 23, 2003. Charges  
10 against him were dismissed on August 19, 2002.

11 6. According to Chapas-Aguilera's rap sheet, he was arrested for selling illegal  
12 narcotics and conspiracy in San Francisco on February 27, 2004. He was convicted of  
13 possessing narcotics for sale on April 4, 2004, and served 40 days in jail. The conspiracy charge  
14 was dismissed on April 4, 2004.

15 7. According to Chapas-Aguilera's rap sheet, he was arrested for possessing and  
16 delivering heroin and cocaine in Multnomah County, Oregon, on May 25, 2006. Although his  
17 rap sheet does not state whether he was convicted of any crimes based on that arrest, I spoke  
18 with former Special Assistant United States Attorney Albert Sambat, now a Trial Attorney at the  
19 Department of Justice, about the Chapas-Aguilera case. Former SAUSA Sambat was the lead  
20 prosecutor on the Chapas-Aguilera case. He told me that Chapas-Aguilera was not convicted of  
21 any crimes based on the May 25, 2006 arrest.

22 8. According to Chapas-Aguilera's rap sheet, he was arrested for selling illegal  
23 narcotics in San Francisco on October 29, 2007. Although his rap sheet does not state whether  
24 he was convicted of any crimes based on that arrest, former SAUSA Sambat told me that  
25 Chapas-Aguilera was not convicted of any crimes based on the October 29, 2007 arrest.

26 9. I also spoke with former SAUSA Sambat about whether Chapas-Aguilera was in  
27 a gang. Sambat told me that investigators did not find or receive any evidence indicating that  
28 Chapas-Aguilera is or ever was in a gang.

10. I will file Chapas-Aguilera's rap sheet under seal if the Court requests it. I believe that defense counsel is already aware of Chapas-Aguilera's criminal history because he sent me a copy of Chapas-Aguilera's PSR during this case.

I declare under penalty of perjury that the foregoing is true and correct. Sworn July 22, 2008, at San Francisco, California.

/s/  
TAREK J. HELOU